

HOUSE No. 1337

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian for legislation to regulate coal ash as solid waste. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO REGULATE COAL ASH AS SOLID WASTE.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to protect the public health, safety,
3 and the environment from the environmental and public health
4 hazards posed by waste produced from the combustion of coal,
5 therefore it is hereby declared to be an emergency law, necessary
6 for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 150A of Chapter 111 of the General Laws
2 is hereby amended in paragraph one by inserting in the definition
3 of “Refuse,” following the word “Refuse,” the words “Coal Ash.”

1 SECTION 2. Section 150A of Chapter 111 of the General Laws
2 is hereby amended in paragraph nine by inserting the following
3 definitions:—

4 Coal Ash means waste produced from the combustion of coal,
5 including but not limited to fly ash, bottom ash and flue gas desul-
6 furization sludge, slag, and including wastes associated with the
7 combustion of coal when added to fly ash, bottom ash or slag.

8 Controlled Density Fill means a low-density material that is
9 flow able, self-consolidating, rigid setting, and that can substitute
10 for compacted gravel in backfills, fills and structural fills. Con-
11 trolled Density Fill may be excavatable or non-excavatable by
12 hand tools.

13 Fill means a material used to fill a cavity, passage or hole in the
14 ground, or to raise the level of the ground or to alter the grades of
15 the ground.

1 SECTION 3. Section 150A of Chapter 111 of the General Laws
2 is hereby further amended by striking the paragraph added by
3 Chapter 118 of the Acts of 1976 and inserting in place thereof the
4 following paragraphs:—

5 As of the effective date of this act, coal ash shall not be used as
6 fill, deposited in a landfill, or disposed of by burial, until such
7 time as a site assignment for such site has been obtained from the
8 board of health. No site assignment shall be required for the use of
9 coal ash as fill at any site prior to the effective date of this act.

10 Coal Ash shall not be construed as refuse when used as a raw
11 material for the manufacture of cement products, concrete prod-
12 ucts, Controlled Density Fill, asphalt paving products, roofing
13 tiles, use as mineral filler where the ash is incorporated in a solid,
14 impermeable matrix, or where generated from a 1-4 family resi-
15 dence; provided, however, the department shall have jurisdiction
16 to determine, after notice, that such uses create a threat to public
17 health, safety or the environment and to regulate the Coal Ash as
18 refuse.

19 Any person storing Coal Ash shall do so in a manner that does
20 not create a nuisance condition, cause a discharge of pollutants to
21 waters of the Commonwealth in violation of M.G.L. c. 21, s.26 -
22 56 and regulations promulgated thereto, or create a condition of
23 air pollution. If the Department determines that Coal Ash storage
24 has a significant potential to create a nuisance condition, cause a
25 discharge of pollutants to waters of the Commonwealth in viola-
21 tion of M.G.L. c. 21, s.26 - 56 and regulations promulgated
22 thereto, or create a condition of air pollution, the Department may
23 require permits pursuant to this section for such storage. Any
24 person who stores more than 100 cubic yards of Coal Ash at any
25 one time shall make a one-time notification for each storage loca-
26 tion to the Department prior to commencement of storage. In the
27 case of storage that began prior to the effective date of this
28 section, notice shall be provided to the Department for each
29 storage location within 180 days of the effective date of this
30 section.

31 As of the effective date of this Act, any on-going use of Coal
32 Ash that is refuse, except for use as Fill, may continue as an
33 interim use where either the generator or user of the Coal Ash
34 submits an application for a permit to the Department within 180
35 days of the effective date of this Act. Such interim use may con-
36 tinue until such time as the Department issues an approval or
37 denial of the use, or one year from the date the application was
38 submitted to the Department, whichever is earlier. At its discre-
39 tion, the Department may extend the time period of the interim
40 use where it is reviewing the application and further information
41 is required before the Department can make a determination on
42 the application. In no case shall this interim period exceed two
43 years from the date the application was submitted to the Depart-
44 ment.

1 SECTION 4. This Act shall take effect upon its passage.